IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4151 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPN.

Versus

S T KARMACHARI MANDAL

Appearance:

1. Special Civil Application No. 4151 of 2001

MRS VASAVDATTA BHATT for Petitioner No. 1

MR MD RANA for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 28/11/2003

ORAL JUDGEMENT

Heard learned advocate Ms. Bhatt for the petitioner and Mr. Rana, learned advocate for the

respondent workman. In this petition under Article 227 of the Constitution of India, the petitioner has challenged the legality, validity and propriety of the award made by the Industrial Tribunal, Bhavnagar in Reference (IT) No. 20 of 1992 dated 21.1.2000 whereunder the tribunal has allowed the said reference in part and has set aside the order of punishment of stoppage of three annual increments with cumulative effect and ordered for stoppage of three annual increments of the workmen without cumulative effect.

During the course of hearing, learned advocate Ms. Bhatt submitted that in view of the past record of the workman concerned, the labour court has committed gross error in modifying the punishment of stoppage of three annual increments with cumulative effect to that of stoppage of three annual increments without cumulative effect. She further submitted that considering the allegations made against the workman, at the time of checking, it was found that he recovered fare from the passenger but the tickets were not issued by him and as such, it was a case of dishonesty and misappropriation of the fund of the corporation and, therefore, the punishment imposed by the corporation was requiring no interference and, therefore, tribunal ought not to have interfered with such order of punishment. It was also her submission that the punishment of stoppage of three increments without cumulative effect is, as such, no punishment, considering the act of delinquency committed by the workman.

On the other hand, it was submitted by the learned advocate Mr. Rana for the workman that the tribunal has concluded that there was no dishonest intention on the part of the workman but considering some negligence on the part of the workman, the tribunal has imposed punishment of stoppage of three annual increments without cumulative effect and, therefore, this court may not interfere with such award made by the tribunal. He also submitted that the tribunal has given benefit of doubt to the workman on the ground that the way bill was not closed at the relevant time meaning thereby that the tickets were required to be issued by the workman after collecting the fare and, therefore, the tribunal was right in concluding that there was no dishonest intention on the part of the workman and, therefore, this court may not interfere with the award in question.

I have considered the submissions made by the learned advocates for the parties. I have also perused the award made by the tribunal. According to my opinion,

considering the past record and also considering the allegations made against the workman, the tribunal has shown, to some extent, a lenient view because modification of the punishment from stoppage of three annual increments with cumulative effect to that of without cumulative effect is not having any recurring effect and, therefore, it can be considered as mere fine imposed upon the workman though the way bill was found open at the relevant time and there may not be any dishonest intention on the part of the workman. Conductor conducting the bus of the Corporation is supposed to act promptly and he has to immediately issue ticket after collection of fare. While this Court was considering this aspect, both the learned advocates ultimately left it to the discretion of this court and requested to impose proper punishment in view of the facts and allegations made against the workman. According to my opinion, therefore, the award made by the tribunal dated 28.1.2000 is required to be suitably modified. Considering the facts and circumstances of the case, I am of the opinion that the the original punishment of stoppage of three increments with cumulative effect is too harsh but it would be just and proper if the punishment of stoppage of only one increment with cumulative effect is imposed upon the workman. I, therefore, pass the following order.

This petition is partly allowed. The award made by the tribunal in Reference (IT) NO. 20 of 1992 dated 28.1.2000 is hereby modified to the effect that instead of punishment of stoppage of three annual increments without cumulative effect, the Corporation shall stop one annual increment of the workman with cumulative effect. Rest of the award made by the tribunal is confirmed. Rule is made absolute in terms indicated hereinabove. Corporation is directed to pay the amount of difference, if any, pursuant to this modification of the award to the heirs of the workman within three months from the date of receipt of copy of this order. In the facts and circumstances of the case, there shall be no order as to costs.

Dt.28.11.2003. (H.K. Rathod,J.)

Vyas